S.B. Criminal Revision Petition NO.351/2006
(Ravindra Singh Vs. State & Ors.)

Date of order : 10.5.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Niranjan Singh, for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.
Mr. N.S. Rajpurohit, for the non-petitioner No.2.

Heard learned counsel for the parties and gone through the impugned order dated 21.3.2006 passed by Civil Judge (J.D.) & Judicial Magistrate, No.3, Jodhpur.

In the present case, from the perusal of the impugned order, it is clear that at the time of passing of impugned order, the evidence on record was not considered by the Magistrate and further, at the time of passing the impugned oder, it was observed by the Magistrate that "इस प्रकरण में अन्तिम प्रतिवेदन महानिरीक्षक रेंज पुलिस जोधपुर शहर द्वारा दिया गया है"

It is very strange that the learned Magistrate instead of considering the entire evidence has passed the impugned order on the basis of the fact that the final report in the matter has been given by the Dy. Inspector General of Police, Police Range, Jodhpur. It is true that the Dy. Inspector General of Police, Police Range, Jodhpur is having supervisory jurisdiction but if any adjudication is made by him with regard to the investigation conducted by the

Investigating Officer, the same cannot be treated to be an evidence at the time of passing any judicial order by the Court in the matter. The Magistrate is required to discuss the evidence which is on record and thereafter, he is required to give conclusion, which is totally absent in the present case.

In the circumstances, the order impugned dated 21.3.2006 passed by Civil Judge (J.D.) & Judicial Magistrate, No.3, Jodhpur is set aside and the case is remitted to the concerned Magistrate for passing a fresh order with the direction to consider the entire evidence of the case, ignoring the fact that the Dy. Inspector General of Police, Police Range, Jodhpur has given Final Report in the matter.

With these directions, the revision petition is allowed. Record of the case be sent back forthwith to the concerned Magistrate.

(GOPAL KRISHAN VYAS), J .

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